

Permit: USACE Permit No. 200511169

FINAL ADMINISTRATIVE PENALTY ORDER

Under the authority granted by 33 U.S.C. § 1319(g) and 33 CFR Part 326.6, I, Colonel John E. Pulliam, Jr., District Engineer, Wilmington District, issue this order assessing a Class 1 Administrative Penalty for violation of the above-referenced permit.

Name/Address of Permittee:

Colington Pointe, LLC

Permitted Activity:

The development of a residential/condominium complex, including construction of a boating access facility, boardwalk, clubhouse, pool, and boat ramp, on property located at 1608 Colington Road, adjacent to Dog Point Creek and Blounts Bay, in the Community of Colington, Dare County, North Carolina, consistent with the application and plans for USACE Permit No. 200511169.

Condition(s) or Limitation(s) of Permit Reportedly Violated:

Colington Pointe, LLC, failed to comply with special condition 18 of the permit, which states, "No vegetated wetlands shall be excavated or filled without permit modification." Special Condition 19 states that, "The temporary placement or double handling of excavated or fill materials within waters or vegetated wetlands are not authorized." Special Condition 22 states that, "The permittee is advised that this permit does not authorize the filling of any wetlands associated with the construction of the access road leading to the northern point of condominiums."

Description of the Nature of the Violation(s):

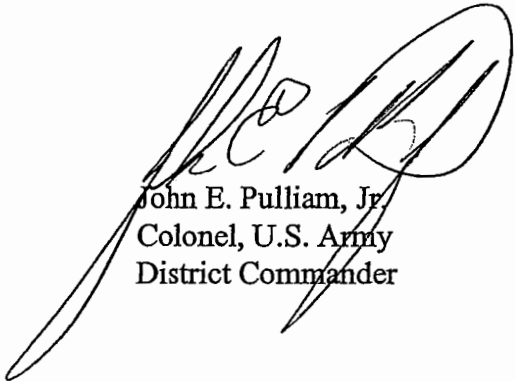
Colington Pointe, LLC, began construction of the residential/condominium complex without complying with these permit conditions. Colington Pointe, LLC, constructed an access road through wetlands, resulting in adverse impacts to approximately 5,600 square feet (0.12-acre) of high quality coastal marsh.

It is my decision that a Class 1 Administrative Penalty in the amount of \$11,000 shall be assessed against the permittee. Permittee will pay the penalty by cashier's or certified check, payable to FAO, USAED Wilmington, and delivered to the Office of Counsel, U.S. Army Engineer District, P.O. Box 1890, Wilmington, North Carolina, 28402, within 30 days from the effective date of this letter.

The issuance of this Order constitutes final U.S. Army Corps of Engineers action in this case for purposes of judicial review.

This order will become effective 30 calendar days following its issuance unless an appeal is taken pursuant to 33 U.S.C. § 1319(g)(8) or a hearing is granted. Since no hearing was held prior to the issuance of this Order, a prior commenter may file a petition for a hearing within the 30-day period.

Issued this 26th day of June 2006.



John E. Pulliam, Jr.
Colonel, U.S. Army
District Commander